

COASTAL CONSERVANCY

Staff Recommendation
June 5, 2008

MENDOCINO ACCESS EASEMENTS TRANSFER

File No. 08-058-01
Project Manager: Matthew Gerhart

RECOMMENDED ACTION: Authorization to disburse up to \$41,000 to the Coastal Land Trust (CoLT) to facilitate transfer of approximately 74 public access easements from the American Land Conservancy (ALC) to local nonprofit organizations and public agencies.

LOCATION: Areas throughout the Mendocino County Coast.

PROGRAM CATEGORY: Public Access

EXHIBITS

Exhibit 1: [Project Location](#)

Exhibit 2: [ALC Board Resolution Authorizing Transfer](#)

Exhibit 3: [Public Access Easement Locations](#)

Exhibit 4: [Letters of Support](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31400 - 31410 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed \$41,000 (forty-one thousand dollars) to the Coastal Land Trust (CoLT) to facilitate the transfer and associated management of approximately 74 public access easements on the Mendocino coast from the American Land Conservancy to qualified nonprofit organizations and public agencies. This authorization is subject to the condition that prior to the disbursement of any funds, CoLT shall submit for the review and approval of the Executive Officer of the Conservancy a work program, budget, schedule, and the names of any contractors to be employed in carrying out the project.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the purposes and objectives of Chapter 9 of Division 21 of the Public Resources Code, regarding the implementation of a system of public accessways to and along the state's coastline.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines, last updated by the Conservancy on September 20, 2007.
3. The CoLT is a private nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code."

PROJECT SUMMARY:

Staff recommends that the Conservancy authorize the disbursement of up to \$41,000 to the Coastal Land Trust (CoLT) to facilitate the transfer and future management of approximately 74 public access easements (the "easements") on the Mendocino County coast currently held by the American Land Conservancy (ALC).

The easements were created by the acceptance of Offers to Dedicate public access ("OTDs") that were conditions of coastal development permits issued pursuant to the Coastal Act. ALC's easements were accepted in order to prevent the expiration of an OTD or were assigned from Coastwalk, a non-profit organization who, in a similar fashion, had accepted a group of OTDs in order to prevent their expiration.

In January 2008, ALC informed the Conservancy that it would need to transfer the public access easements due to significant board and staffing restructuring. Upon being informed that ALC would no longer be able to manage these easements, Conservancy staff worked to determine if another entity would be able to take on the full suite of 74 easements. No organization was able to do so, but a number of organizations expressed interest in a subset of the easements. Therefore, the proposed funding would enable CoLT to coordinate the transfer of easements amongst appropriate entities.

CoLT will first work to identify qualified nonprofit organizations or public agencies that can manage the easements. Potential entities that may be able to accept a subset of easements include the California Department of Parks and Recreation (State Parks), Mendocino Land Trust, the Westport Village Society, the Moat Creek Managing Agency, and Redwood Coast Land Conservancy. CoLT will coordinate, as needed, with other governing entities such as the Coastal Commission, the Conservancy and County of Mendocino to facilitate transfers of the easements from ALC to appropriate entities, including preparation of transfer documents, updating management plans, and coordinating the execution of 835.1 management agreements.

CoLT will also develop outreach materials regarding the easements, including information detailing the public access benefits of the easements along the Mendocino coast, an evaluation of cost considerations, and recommendations for the development of long-term funding mechanisms. These materials will be used to facilitate the transfer of the easements and will be made available in a format that can serve to benefit future easement transfers.

CoLT will accept assignment of any easements for which it is unable to find an appropriate and qualified accepting entity. This authorization would also provide funds for up to four years of management of the easements that CoLT accepts.

CoLT has the expertise to facilitate transfer of these easements because they have successfully managed a number of public access easements in the county, including the ownership, development and management of Seaside Beach. CoLT currently employs project staff who is familiar with the wide variety of Mendocino OTD easements and experienced with managing coastal access easement transfers.

Site Description: The easements are located on private properties scattered along the entire length of the Mendocino coast, as depicted in Exhibit 3. The County boasts spectacular scenery along its coastline, and a good deal of it is comprised of high, steep bluffs and numerous creek and river outflows. Heavy forestation alternates with open meadow or grazing land throughout much of the coastal area.

Generally the easements break up into several types with varying levels of accessibility, including: 1) “Vertical” easements providing access to the bluff edge or water from an existing public right of way, often Highway One; 2) “Lateral” easements running along the bluff edge that connect to existing public lands or vertical access easements; 3) “Toe of the Bluff” easements that reach from the mean high tide line to the foot of adjacent coastal bluffs, allowing public access to the full beach area; 4) partial interests in community or subdivision-held public access parcels; and 5) “Stranded” vertical or lateral easements that do not currently connect to public lands or right of ways.

Project History: Between 2000 and 2005, a large number of OTDs located along the Mendocino coast, previously created in the 1970s and 80s through coastal development permit applications with Mendocino County and the California Coastal Commission, were due to expire. Because Mendocino County does not have a county park department or regional park district, numerous nonprofit organizations became involved in the effort to accept the OTDs and potentially open the accessways for public use. Pursuant to a Conservancy authorization in August 2, 2000, Coastwalk, a nonprofit organization dedicated to ensuring public access to the coast, accepted several dozen of these OTDs to prevent their expiration and provided interim management. Subsequently, Coastwalk assigned these easements to ALC, a nonprofit land trust based in San Francisco, which also accepted several other OTDs nearing expiration.

By 2005, ALC had accepted over 80 Mendocino County public access easements and assumed interim management responsibilities. ALC expected that local entities with a commitment to promoting public access to the Mendocino coast would eventually accept assignment of the easements. In 2005, the Mendocino Land Trust accepted responsibility for 15 of the easements and received a Conservancy grant (ongoing) to plan for opening the easements to the public. Eleven other easements were evaluated for transfer to State Parks, but have not yet gone through the transfer process; these transfers would be further facilitated by CoLT through this authorization.

PROJECT FINANCING:

Coastal Conservancy	\$41,000
American Land Conservancy	<u>8,000</u>
Total Project Cost	\$49,000

The source of funds for this project is expected to be the Violation Remediation Account. The Violation Remediation Account (VRA) consists of payments made as penalty for violations of individual coastal development permits required by the Coastal Commission. All of the VRA funds proposed to be used for this project are derived from violations that occurred in Mendocino County. These funds are appropriated to the Conservancy annually for use in developing and managing OTDs and other coastal accessways.

This project would provide for continued management of existing coastal public access easements in Mendocino County, consistent with the VRA.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project is undertaken pursuant to Chapter 9 of Division 21 of the Public Resource Code (Sections 31400 *et seq.*) relating to the provision of coastal public access. Under Public Resources Code Section 31400, the Conservancy is directed by the state legislature to have a principal role in the implementation of a system of public accessways along the state's coastline.

This project is consistent with Public Resources Code Section 31400.1, which authorizes the Conservancy to award grants to nonprofit organizations to acquire interests in land to develop, operate or manage for the purposes of providing public access to and along the coast. The proposed funding will facilitate the transfer of public access easements to appropriate entities for operation and management.

Pursuant to Section 31400.3, the Conservancy may provide such assistance as is required to aid public agencies and nonprofit organizations in establishing a system of public coastal accessways, and related functions necessary to meet the objectives of Division 21. In order to facilitate public access to the coast, it is necessary to transfer these easements to appropriate nonprofit organizations or public agencies to manage.

The proposed project is consistent with the Mendocino Local Coastal Program as described in the Consistency with Local Coastal Program Policies below.

**CONSISTENCY WITH CONSERVANCY'S 2007
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 2, Objectives C and D** of the Conservancy's 2007 Strategic Plan, the proposed project will seek to protect and improve public access to areas of the coast that are currently inaccessible or closed to the public. In particular, the project will fund technical assistance to operate and manage public access easements to and along the coast.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on September 20, 2007, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** Similar public access easements along the Mendocino Coast have recently been a great success in both restoring historical coastal access to local residents and providing new visitor access. The proposed funding will ensure that ALC's easements are transferred to qualified entities with the capacity to manage them for public access purposes.
4. **Location:** The easements are located within the coastal zone of Mendocino County.
5. **Need:** ALC no longer has the programmatic focus or local presence necessary to adequately manage such a large number of easements. Per joint Conservancy and Coastal Commission policy, without the transfer of the easements to qualified public agencies and nonprofit organizations, management responsibilities would fall upon the Conservancy. The CoLT has staff capacity and expertise to facilitate the transfers but is in need of funding to realize the project.
6. **Greater-than-local interest:** The Mendocino County coast is a major tourist destination for visitors from around the state, the country, and the world. The density of public access easements in this area provides a unique opportunity to develop a comprehensive set of local coastal accessways and to integrate them with the California Coastal Trail.

Additional Criteria

7. **Urgency:** ALC is not able to continue to adequately manage its public access easements and, in the absence of the proposed project, the easements would not be promptly transferred to other entities capable of managing them. Additionally, the opportunity exists now to build upon recent local interest in management of public accessways.
8. **Resolution of more than one issue:** The project will both resolve the immediate need to transfer ownership of the easements and further the development of long-term, local mechanisms for their management.
12. **Readiness:** The CoLT currently has staff with extensive experience and knowledge of ALC's easements and is prepared to implement the project immediately.
13. **Realization of prior Conservancy goals:** This project is a continuation of Conservancy efforts to promote public access to the coast by identifying public agencies and nonprofit organizations appropriate to accept ownership and maintenance responsibility for easements created through the acceptance of coastal development permit OTDs.

15. **Cooperation:** Several entities have expressed interest in taking on management of subsets of the easements. This project will foster cooperation among a variety of qualified nonprofit organizations and public agencies in managing public access on the Mendocino coast.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The proposed project is consistent with Mendocino County's Local Coastal Program ("LCP"), which was certified by the Coastal Commission in 1985 (Coastal Element) and 1991 (Coastal Zoning Code). The proposed project is consistent with the LCP concerning management and maintenance of accessways, in the following respects:

"LCP Policy 3.6-5: Acquisition methods such as bequests, gifts, and outright purchases are preferred by the County when obtaining public access from private land-owners. Other suitable voluntary methods such as non-profit land trusts may be helpful and should be explored in the future. . . ."

"LCP Policy 3.6-6: Shoreline access points shall be at frequent rather than infrequent intervals for the convenience of both residents and visitors and to minimize impacts on marine resources at any one point. Wherever appropriate and feasible, public access facilities, including parking areas, shall be distributed throughout the coastal area so as to mitigate against the impacts, social or otherwise, of overcrowding or overuse by the public of any single area. Specific proposals of this plan reflect this goal."

"LCP Policy 3.6-13: The County may seek agencies to accept accessways as prescribed in this section under 'Managing and Maintaining Accessways.' Dedicated accessways shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway."

All of the easements were conditions of coastal development permits issued by the Coastal Commission or the County of Mendocino. In each case, the Coastal Commission or County determined that it could not approve development consistent with the policies of the Coastal Act, except on condition that the required public access be provided.

COMPLIANCE WITH CEQA:

The public access easements are intended to be kept in a natural condition with only minor ancillary improvements to facilitate public use, or to serve as public open spaces. The transfer of the public access easements, as provided in this staff recommendation, is therefore categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to 14 Cal. Code of Regulations Section 15325 because it is a transfer of ownership of interest in land in order to preserve open space or to preserve existing natural conditions.

Funding for the ongoing operation and maintenance of an existing access easement is categorically exempt from CEQA review pursuant to 14 Cal. Code of Regulations Section 15301, since it consists of the operation, maintenance, or minor alteration of existing public or private structures, facilities, or topographical features, involving negligible or no expansion of use.

Staff will file a notice of exemption upon approval.